

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on July 6, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the issues of medical necessity. The therapeutic exercises from 07-18-03 through 10-29-03 **were not found** medically necessary. The muscle testing from 07-18-03 through 10-29-03 **was found** to be medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 08-05-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
07-08-03	97750-MT (4 units)	\$172.00	\$157.56	F	\$43.00 x 4	1996 MFG	Requestor submitted relevant information that supports services billed. Recommend additional reimbursement of \$14.44.
07-09-03	99214 99070 99070	\$75.00 \$18.33 \$8.00	\$68.70 \$16.77 \$7.59	F	\$71.00 \$18.33 \$8.00	1996 MFG	Requestor submitted relevant information that supports services billed. Recommend additional reimbursement of \$4.27.
07-14-03	99213 97265	\$50.00 \$43.00	\$48.00 \$43.00	F	\$48.00 \$43.00	1996 MFG	Requestor submitted relevant information that supports services billed. Recommend additional reimbursement of \$2.73.

07-16-03	99213 97265 97250 97014	\$50.00 \$43.00 \$43.00 \$17.00	\$47.41 \$37.76 \$37.76 \$14.93	F	\$48.00 \$43.00 \$43.00 \$15.00	1996 MFG	Requestor submitted relevant information that supports services billed. Recommend additional reimbursement of \$11.14.
07-18-03	99213 97150	\$50.00 \$27.00	\$43.91 \$18.84	F	\$48.00 \$27.00	1996 MFG	Requestor submitted relevant information that supports services billed. Recommend additional reimbursement of \$12.25.
07-21-03	99213 97265 97250 97150 97110	\$50.00 \$43.00 \$43.00 \$27.00 \$140.00 (4units)	\$34.89 \$30.01 \$30.01 \$18.81 \$55.40	F	\$48.00 \$43.00 \$43.00 \$27.00 \$35.00/unit x 4	1996 MFG	Requestor submitted relevant information that supports services 99213, 97265, 97150 and 97250 as billed. Recommend reimbursement of \$47.28. See rationale below for CPT code 97110.
07-24-03	99213 97265 97250 97150 97110	\$50.00 \$43.00 \$43.00 \$27.00 \$140.00 (4units)	\$35.40 \$30.44 \$30.44 \$19.11 \$58.24	F	\$48.00 \$43.00 \$43.00 \$27.00 \$35.00/unit x 4	1996 MFG	Requestor submitted relevant information that supports services 99213, 97265, 97150 and 97250 as billed. Recommend reimbursement of \$45.61. See rationale below for CPT code 97110.
07-28-03	99213 97265 97250 97150 97110	\$50.00 \$43.00 \$43.00 \$27.00 \$140.00 (4units)	\$35.37 \$27.68 \$27.68 \$17.38 \$40.26	F	\$48.00 \$43.00 \$43.00 \$27.00 \$35.00/unit x 4	1996 MFG	Requestor submitted relevant information that supports services 99213, 97265, 97150 and 97250 as billed. Recommend reimbursement of \$52.89. See rationale below for CPT code 97110
08-18-03	97110	\$260.00	\$261.12	F	\$32.64/unit x 8	Medicare Fee Guidelines Rule 134.202 (c)	See Rationale below for CPT code 97110.
09-19-03	97110	\$260.00	\$130.00	F	\$32.64/unit x 8	Medicare Fee Guidelines Rule 134.202 (c)	See Rationale below for CPT code 97110.
09-24-03	99211-25	\$23.35	\$0.00	G	\$23.36	Medicare Fee Guidelines Rule 134.202 (c) Rule 133.304 (c)	Carrier didn't specify which service this service was global to, therefore it will be reviewed according to the Medicare Fee Schedule. Recommend reimbursement of \$23.36.

10-03-03	99080 (71pgs)	\$35.50	\$0.00	F	\$.50/per page x 71	Rule 133.106 (f)(3)	Requestor submitted relevant information that supports services billed. Recommend reimbursement of \$35.50.
10-30-03	97750(4)	\$133.60	\$33.41	F	\$33.41 (each 15min) x 4	Medicare Fee Guidelines Rule 134.202 (c)	Requestor submitted relevant information that supports services billed. Recommend additional reimbursement of \$100.19.
12-10-03	95851	\$30.60	\$0.00	G	\$30.61	Medicare Fee Guidelines Rule 134.202 (c)	Carrier didn't specify which service this service was global to, therefore it will be reviewed according to the Medicare Fee Schedule. Recommend reimbursement of \$30.60.
TOTAL		\$2248.38					The requestor is entitled to reimbursement of \$380.26.

Rationale for CPT code 97110 - Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Additional reimbursement not recommended.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) and in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (C); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 07-08-03 through 12-10-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 25th day of October 2004.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

PR/pr

September 8, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

Patient:
TWCC #:
MDR Tracking #: M5-04-3824-01
IRO #: 5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

RECORDS REVIEWED

Enclosed and reviewed records consisted of the following:

1. Office notes of Dr. B from 08/08/03 to 10/29/03
2. Evaluation by Dr. O, M.D. on 09/11/03
3. Neurological evaluation by Dr. F, M.D. on 10/22/03
4. Lumbar MRI dated 05/06/03
5. Evaluation by Dr. R, M.D. on 05/14/03 and 05/19/03
6. Designated doctor evaluation by Dr. S, M.D. on 10/07/03 that assigned this patient an impairment of 5% whole body as of the date of the examination.

CLINICAL HISTORY

___ was injured on the job on ___. From the notes provided by the requestor, she hurt herself while lifting and turning to the left at work. She was initially seen at the ER of Providence Hospital. Her employer then referred her to Dr. I, who in turn referred her to Dr. R who provided therapy from February 2003 to June 2003. She continued to work with restrictions throughout her treatment until she was reportedly terminated. She transferred her care to Dr. B on July 8, 2003, and he performed more physical therapy from 07/18/03 through 10/29/03 as well as ROM and muscle strength testing. The carrier has declined full payment of therapeutic exercises and muscle testing as unnecessary without peer review.

DISPUTED SERVICES

Under dispute is the medical necessity of therapeutic exercises and muscle testing from 7/18/03 to 10/29/03.

DECISION

The reviewer agrees with the prior adverse determination regarding the disputed therapeutic exercises.

The reviewer disagrees with the prior adverse determination regarding muscle testing.

BASIS FOR THE DECISION

This patient was initially diagnosed as having a sprain, but later was diagnosed as having a L4/5 radiculopathy and a disc bulge at L5/S1 with no encroachment. Dr. O deemed her as non-surgical. Dr. B's examination showed improvement of muscle strength per his DeLorme testing. Subjectively, this patient reported little improvement during the scope of the dates in dispute. Her complaints were fairly level, as was her pain level. She reported to Dr. O on 09/11/03 that the treatment in question did not provide satisfactory relief. She also reported as much to Dr. S. In light of the patient's ongoing complaints of pain and inability to function on a daily basis, it appears that the therapeutic exercises were relatively unsuccessful and therefore deemed unnecessary. Muscle testing was appropriate for documentation, and is found to be appropriate.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,